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January 4, 2005

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PUBLIC SERVICE
COMMISSION

via Hand Delivery

Ms. Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Case 2005-00020

**Re: *Cumberland Cellular Partnership Petition for Designation As An Eligible
Telecommunications Carrier in the Commonwealth of Kentucky***

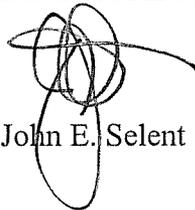
Dear Ms. O'Donnell:

Enclosed for filing with the Public Service Commission of the Commonwealth of Kentucky (the "Commission") is one original and ten (10) copies of Cumberland Cellular Partnership's Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky in the above-styled case.

In addition, enclosed is a copy for file-stamping. Please return this copy to us in the self-addressed, postage prepaid envelope furnished herewith. Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

JES/HCW/rk

Enclosure

cc: Ron Smith (with enclosure)

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JAN 4 2005

PUBLIC SERVICE
COMMISSION

BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION

In the matter of:

CUMBERLAND CELLULAR PARTNERSHIP)
PETITION FOR DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS CARRIER) Case No. 2005-00020
IN THE COMMONWEALTH OF KENTUCKY)

**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE COMMONWEALTH OF KENTUCKY**

1. Cumberland Cellular Partnership ("Cumberland Cellular"), by counsel, and pursuant to section 214 of the Telecommunications Act of 1996 (the "Act"), hereby submits its Petition for Designation ("Petition") as an eligible telecommunications carrier ("ETC") in the Commonwealth of Kentucky.

2. Cumberland Cellular is a cellular telephone carrier providing digital wireless telecommunications services in Kentucky Rural Service Area ("RSA") 5 serving Adair, Barren, Clinton, Cumberland, McCreary, Metcalfe, Monroe, Russell, and Wayne counties. Cumberland Cellular seeks designation as an ETC for both study areas of rural telephone companies as defined in 47 U.S.C. § 153(37), as well as wire centers of non-rural incumbent local exchange carriers ("ILECs").¹ As demonstrated herein, and certified in Exhibit B to this Petition, Cumberland Cellular satisfies all of the requirements for designation as an ETC in each of the Designated Areas and respectfully requests that the Kentucky Public Service Commission (the "Commission") promptly grant its Petition.

**I. CUMBERLAND CELLULAR MEETS ALL THE REQUIREMENTS FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO
SERVE THE DESIGNATED AREAS IN THE COMMONWEALTH OF
KENTUCKY.**

¹ A list of the rural telephone company study areas and non-rural ILEC wire centers ("Designated Areas") for which Cumberland Cellular seeks designation in this Petition is attached as Exhibit A.

3. Pursuant to 47 U.S.C. § 214(e)(2), the Commission, "consistent with the public interest, convenience and necessity . . . may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as [the] requesting carrier meets the requirements of paragraph (1)" of Section 214(e). Wireless telecommunications carriers, such as Cumberland Cellular, are eligible to be designated as ETCs. *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997). Cumberland Cellular satisfies the requirements of paragraph (1) of Section 214(e); therefore, the Commission should designate Cumberland Cellular as an ETC for the Designated Areas.

"A common carrier designated as an eligible telecommunications carrier. . . shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

47 U.S.C. § 214(e)(1).

4. Pursuant to this statute, so long as a telecommunications carrier offers the services supported by the Universal Service Fund using its own facilities or a combination of its own facilities and those of another telecommunications carrier, and advertises the availability of such services, "a State commission shall . . . designate [the] common carrier . . . as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). The services supported by

the Universal Service Fund are: 1) voice grade access to the public switched network, 2) local usage, 3) dual tone multi-frequency signaling or its functional equivalent, 4) single-party service or its functional equivalent, 5) access to emergency services, 6) access to operator services, 7) access to interexchange service, 8) access to directory assistance, and 9) toll limitation for qualifying low-income consumers. *See* 47 C.F.R. § 54.101(a). As demonstrated below, and as set forth in the declaration of Ron Smith, authorized representative of Cumberland Cellular, Cumberland Cellular offers all of the services supported by the Universal Service Fund using a combination of its own facilities and those of other telecommunications carriers, and advertises the availability of those services. (*See* Exhibit B, Declaration of Ron Smith). Accordingly, the Commission should grant Cumberland Cellular's petition.

A. Cumberland Cellular Will Provide Service Using a Combination of its Own and Others' Facilities.

5. Cumberland Cellular is a full service wireless carrier that offers all of the services supported by the Universal Service Fund throughout its licensed service area utilizing a combination of its own facilities and facilities leased from other telecommunications carriers.

B. Cumberland Cellular Offers All Required Services and Functionalities.

6. Cumberland Cellular offers, or will offer upon designation as an ETC in the Designated Areas, all of the services and functionalities required by 47 C.F.R. § 54.101(a) as specified below.

(i) Voice grade access to the public switched telephone network.

7. Voice grade access to the public switched telephone network (“PSTN”) is defined as "a functionality that enables a user of telecommunications services to transmit voice

communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz." 47 C.F.R. § 54.101(a)(1). Cumberland Cellular services enable customers to transmit voice communications, including placing and receiving calls. Cumberland Cellular offers this service at a bandwidth between 300 and 3,000 Hertz. Therefore, Cumberland Cellular offers voice grade access to the public switched network within the meaning of 47 C.F.R. § 54.101(a)(1).

(ii) **Local usage.**

8. Local usage is defined as "an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users." 47 C.F.R. § 54.101(a)(2). Cumberland Cellular has a variety of rate plans which provide local usage for its subscribers. Moreover, as a designated ETC, Cumberland Cellular will comply with any and all minimum local usage requirements required by applicable law.

(iii) **Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.**

9. Section (a)(3) of 47 C.F.R. 54.101 provides for supported services to include "dual tone multi-frequency signaling or its functional equivalent." Dual tone multi-frequency ("DTMF") is defined as "a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time." *Id.* Cumberland Cellular provides DTMF signaling to facilitate the transportation of signaling throughout its network. Cumberland Cellular uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.

(iv) **Single-party service or its functional equivalent.**

10. Single-party service is defined as "telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission." 47 C.F.R. § 54.101(a)(4). Cumberland Cellular provides customers with single-party access for the duration of every phone call. Cumberland Cellular does not provide "multi-party" or "party line" services. Accordingly, Cumberland Cellular provides single-party service within the meaning of the FCC's regulations.

(v) **Access to 911 and E911 emergency service.**

11. "Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations." 47 C.F.R. § 54.101(5). Cumberland Cellular provides universal access to the 911 system for its customers, and has implemented and will continue to implement enhanced 911 ("E911") services consistent with the FCC's Rules and Orders and local public service access point ("PSAP") requests.

12. All PSAPs are currently live Phase I. Cumberland Cellular has one PSAP in the process of scheduling Phase II TDMA testing, and Phase II TDMA/CDMA is pending in two counties. Phase II CDMA is pending in one county.

(vi) **Access to operator services.**

13. Access to operator services is defined as "access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." 47 C.F.R. § 54.101(6). Cumberland Cellular offers all of its customers access to operator services in accordance with FCC regulations.

(vii) Access to interexchange service (“IXC”).

14. Access to interexchange service is defined as "the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network." 47 C.F.R. § 54.101(7). Cumberland Cellular customers can use the Cumberland Cellular network for interexchange access to place long distance phone calls. Access is provided through interconnection agreements with several interexchange carriers.

(viii) Access to directory assistance.

15. Access to directory assistance is defined as "access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings." 47 C.F.R. § 54.101(8). All Cumberland Cellular customers are able to dial "411" or "555-1212" to access directory assistance.

(ix) Toll limitation for qualified low-income consumers.

16. Toll limitation for qualifying low-income consumers is defined as "toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, toll limitation denotes both toll blocking and toll control." 47 C.F.R. § 54.400(d). Toll blocking "is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." 47 C.F.R. § 54.400(b). "Toll control is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle." 47 C.F.R. § 54.400(c).

17. In accordance with the FCC's Rules, Cumberland Cellular will make toll

limitation services available to qualifying low-income consumers upon designation as an ETC. Cumberland Cellular already has toll limitation capabilities and is providing toll limitation features to some of its customers. Upon designation as an ETC, Cumberland Cellular will offer these services to consumers who meet the qualifications for Lifeline as specified in 47 C.F.R. § 54.409.

C. Cumberland Cellular Will Advertise the Availability of Supported Services.

18. Cumberland Cellular will advertise the availability of the supported services detailed above, as well as the charges therefore, using media of general distribution in accordance with 47 C.F.R. § 54.201(d)(2). The methods of advertising utilized may include newspapers, magazines, radio, or television as well as other methods that constitute media of general distribution in the Designated Areas of Kentucky.

II. CUMBERLAND CELLULAR REQUESTS DESIGNATION THROUGHOUT EACH OF THE DESIGNATED AREAS WITHIN ITS SERVICE COVERAGE.

19. Cumberland Cellular is not a rural telephone company as defined in 47 U.S.C. § 153(37). Accordingly, Cumberland Cellular is required to describe the geographic areas within which it requests designation as an ETC. Cumberland Cellular requests designation as an ETC throughout each of the Designated Areas within the Commonwealth of Kentucky, as set forth in Exhibit A. As noted above, these Designated Areas consist of study areas of rural telephone companies that Cumberland Cellular or a related cellular telephone carrier serves in their entirety (with one exception) as well as wire centers of non-rural ILECs.² A map of Cumberland Cellular's service area, within which Cumberland Cellular or a related cellular telephone carrier provides service to the entirety of the Designated Areas, with the one exception noted above, is

² The one exception is the rural study area for Kentucky Alltel, Inc. - London. Cumberland Cellular seeks ETC designation for the following Kentucky Alltel, Inc. - London wire center: PRCYKYXA.

attached as Exhibit C.³

III. IN ACCORDANCE WITH 47 U.S.C. § 214(e)(2), CUMBERLAND CELLULAR IS ENTITLED TO BE DESIGNATED AS AN ETC IN NON-RURAL WIRE CENTERS.

20. Pursuant to 47 U.S.C. §214(e) and 47 C.F.R. § 54.201(c), Cumberland Cellular is entitled to be granted ETC status by the Commission with respect to the non-rural wire centers identified in Exhibit A. "A State commission *shall* upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). Given Cumberland Cellular satisfies the requirements of paragraph (1) of 47 U.S.C. § 214(e) as described above, the Commission should grant Cumberland Cellular's petition with regard to the non-rural wire centers identified in Exhibit A.

IV. DESIGNATION OF CUMBERLAND CELLULAR AS AN ETC FOR THE DESIGNATED AREAS SERVED BY A RURAL TELEPHONE COMPANY IN KENTUCKY WOULD SERVE THE PUBLIC INTEREST.

21. With regard to areas served by rural telephone companies as defined in 47 U.S.C. § 153(37), the Commission must determine not only that Cumberland Cellular will satisfy the requirements set forth above, but that Cumberland Cellular's designation as an ETC in those areas would serve the public interest.⁴ As demonstrated below, Cumberland Cellular's designation as an ETC would serve the public interest in all of the Designated Areas.

22. The FCC has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice,

³ The map of Cumberland Cellular's service area will be provided under separate cover.

⁴ See 47 U.S.C. § 214(e)(2).

innovative services, and new technologies.”⁵ This is particularly applicable in the Designated Areas served by rural telephone companies within the Commonwealth of Kentucky, many of which are not presently served by competitive wireline carriers that could provide an alternative to the ILEC. Designation of Cumberland Cellular as an ETC would promote competition and facilitate the provision of advanced communications services to residents of rural Kentucky. Consumers would reap the benefits of wireless service and, where requested by the public service access point, global positioning satellite location assistance for customers calling 911.

23. Designation of Cumberland Cellular as an ETC will also provide an incentive to the ILECs in the Designated Areas to improve existing networks to remain competitive, resulting in improved services to consumers. Moreover, Cumberland Cellular’s ETC status will benefit consumers by ensuring that quality services are available at just, reasonable, and affordable rates in accordance with the Act.⁶

24. Designation of Cumberland Cellular as an ETC will also serve the public interest in all of the Designated Areas because Cumberland Cellular will provide all of the supported services required by applicable law, participate in the LifeLine and Link Up programs as required by the FCC, and otherwise comply with all FCC regulations governing universal service programs. Allowing Cumberland Cellular access to universal service subsidies will allow Cumberland Cellular to bring competition to underserved, high-cost areas of the Commonwealth of Kentucky, and to continue to enhance and expand its network infrastructure to better serve consumers in those areas. Accordingly, designation of Cumberland Cellular as an ETC will serve the public interest.

⁵ See Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, Memorandum Opinion and Order, CC Docket No. 94-45, 16 FCC Rcd 48, 55 (2000).

⁶ See 47 U.S.C. § 254(b)(1).

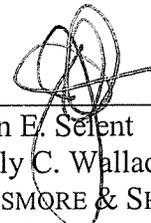
V. ANTI-DRUG ABUSE CERTIFICATION.

25. No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.13.

VI. CONCLUSION.

26. For the foregoing reasons, and in accordance with the Act and the FCC's regulations, Cumberland Cellular respectfully requests that the Commission promptly grant its petition for designation as an eligible telecommunications carrier.

Respectfully submitted,



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**Counsel to Cumberland
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2902 Ring Road
Elizabethtown, KY 42701**

EXHIBIT A

**Designated Areas of Kentucky for which Cumberland Cellular Partnership
Seeks Designation as an Eligible Telecommunications Carrier**

Rural Telephone Company Study Areas

260401 Duo County Telephone Cooperative Corporation, Inc.
264002 Highland Telephone Cooperative, Inc.
269691 Kentucky Alltel, Inc. - London
260418 South Central Rural Telephone Cooperative Corporation, Inc.

Non-Rural ILEC Wire Centers

269690 Kentucky Alltel, Inc. - Lexington

Kentucky Alltel ALBYKYXA
Kentucky Alltel BSVLKYXA
Kentucky Alltel CLMAKYXA
Kentucky Alltel GLSGKYXA
Kentucky Alltel MNTIKYXA
Kentucky Alltel SHDNKYXA
Kentucky Alltel TMVLKYXA

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

**CUMBERLAND CELLULAR PARTNERSHIP)
PETITION FOR DESIGNATION AS AN ELIGIBLE) Case No. _____
TELECOMMUNICATIONS CARRIER)
IN THE COMMONWEALTH OF KENTUCKY)**

DECLARATION OF RON SMITH

I, the undersigned Ron Smith, do hereby declare under penalty of perjury as follows.

1. I am the authorized representative of Cumberland Cellular Partnership ("Cumberland Cellular").

2. Cumberland Cellular is a cellular telephone carrier providing digital wireless telecommunications services in Kentucky Rural Service Area # 5.

3. I declare and certify, as described in Cumberland Cellular's attached petition for eligible telecommunications carrier status, that Cumberland Cellular offers, or will offer, all of the services supported by the Universal Service Fund pursuant to 27 U.S.C. § 254(c)(3); that Cumberland Cellular offers, or will offer, the supported services using a combination of its own facilities and those of other carriers; and that Cumberland Cellular advertises, or will advertise, the availability of supported services, and the charges therefore, using media of general distribution.

4. I further declare that the foregoing, as well as the content of the attached petition for eligible telecommunications carrier status is, to the best of my knowledge and belief, true and correct.

5. I further declare that to the best of my knowledge and belief, Cumberland Cellular, including its officers, directors and shareholders, is not subject to denial of federal

benefits pursuant to 21 U.S.C. § 862.



Ron Smith
Authorized Representative
Cumberland Cellular Partnership

Dated: January 4, 2005.